

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

04-344

In the Matter of

Wireless Telecommunications Bureau  
Seeks Comment on MariTEL, Inc. Proposal  
To Serve as Automatic Identification  
System (AIS) Frequency Coordinator

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DA 03-3669

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Federal Communications Commission  
Office of the Secretary

COMMENTS OF MARITEL, INC.

MariTEL, Inc. ("MariTEL"), by its attorneys and pursuant to the invitation extended by the Federal Communications Commission ("FCC" or "Commission") in the Public Notice issued on November 19, 2003 ("Public Notice"),<sup>1/</sup> hereby submits its comments in the above referenced proceeding. The Public Notice seeks comment on MariTEL's proposal to act as the coordinator of the use of VHF channels 87B and 88B ("Proposal") for Automatic Identification Systems ("AIS") in a manner that resolves the "controversy surrounding use of channels 87B and 88B" between MariTEL and the United States Coast Guard ("USCG").<sup>2/</sup>

<sup>1/</sup> *Wireless Telecommunications Bureau Seeks Comments on MariTEL, Inc. Proposal to Serve as Automatic Identification System (AIS) Frequency Coordinator*, DA 03-3669 (rel. Nov. 19, 2003) ("Public Notice").

<sup>2/</sup> Public Notice at 2. The USCG desires that channels 87B and 88B be available on a nationwide basis for use in Automatic Identification Systems ("AIS"). See *Wireless Telecommunications Bureau Seeks Comments on MariTEL, Inc. Petition for Declaratory Ruling and National Telecommunications and Information Administration Petition for Rulemaking Regarding the Use of Maritime VHF Channels 87B and 88B*, RM 10821, Petition for Rulemaking by the National Telecommunications and Information Administration at 1 (filed Oct. 24, 2003) ("NTIA Petition"). MariTEL did not initially request to coordinate the use of VHF channel 88B along the United States/Canadian Border. However, as FCC Chairman Powell recently recognized, MariTEL is the licensee of channel 88B along the border. See Letter from Chairman Michael Powell, Chairman of the Federal Communications Commission to the Honorable Trent Lott, United States Senator at 1 (Dec. 4, 2003). Accordingly, MariTEL hereby amends its initial proposal to include channel 88B as well.

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## I. BACKGROUND

MariTEL was the largest provider of VHF Public Coast (“VPC”) services in the United States and, through various predecessors in interest, provided ship-to-shore services for over forty (40) years.<sup>3/</sup> In 1999 and again in 2001, MariTEL actively participated in the FCC’s auctions of VPC station licenses.<sup>4/</sup> As a result, MariTEL became the exclusive entity (except for site-specific incumbent licensees) authorized to operate maritime VPC spectrum. Among the channels for which MariTEL is licensed are channels 87B and 88B. The “controversy” referenced in the Public Notice relates to MariTEL’s obligation under Section 80.371 of the FCC’s rules to make available to the USCG, two narrowband offset duplex channels for use in connection with the Ports and Waterways Safety System (“PAWSS”) and the USCG’s desire, instead, to use channels 87B and 88B on a simplex, wideband basis for not only collision avoidance and marine safety, but also for marine domain awareness. MariTEL recently submitted comments in a companion proceeding that provided a detailed discussion of the background of this matter and does not wish to burden the record in this proceeding by

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<sup>3/</sup> As MariTEL notified the FCC, it terminated its provision of voice communications services on June 6, 2003. *See Wireless Telecommunications Bureau Seeks Comment on MariTEL, Inc. Request to Extend Construction Deadline for Certain VHF Public Coast Station Geographic Area Licenses*, DA 03-1484, released May 5, 2003 (“MariTEL Extension Request”) (referencing FCC File Nos. 0001252148, 0001252177, 0001252257, 0001252325, 0001252214, 0001252280, 0001252315 and 0001252335). The MariTEL Extension Request outlines MariTEL’s future plans for the use of its licensed spectrum. MariTEL does not reiterate those plans here but asks that its description of future plans provided in the Extension Request be incorporated herein by reference.

<sup>4/</sup> “FCC Announces the Conditional Grant of 26 VHF Public Coast Station Licenses,” *Public Notice*, DA 99-195, 1999 FCC LEXIS 2251 (rel. May 21, 1999) (announcing that MariTEL was the winning bidder of nine VHF public coast licenses); “VHF Public Coast and Location and Monitoring Service Spectrum Auction Closes: Winning Bidders Announced,” *Public Notice*, DA 01-1443 (rel. June 15, 2001) (announcing that MariTEL was the winning bidder of seven inland VPC licenses).

reiterating that discussion.<sup>5/</sup> It asks that its comments in that proceeding be included in the record of this proceeding by reference.

MariTEL believes that the Proposal is a solution to the controversy that preserves its auctioned spectrum rights, employs the most efficient AIS channel configuration, and uniquely ensures that non-Federal government interests will be served by expanding the utility of AIS technology to all maritime stakeholders. Therefore, MariTEL appreciates the FCC's solicitation of comments regarding the Proposal and is eager to obtain feedback from the maritime community. MariTEL is hopeful that commenting parties will consider the larger framework for this and other potential solutions. MariTEL expects that it will employ the opportunity of submitting reply comments in this proceeding to further develop the Proposal in response to others' comments. Nevertheless, MariTEL is pleased to provide comments in response to the Public Notice to present further benefits of its Proposal.

## **II. DISCUSSION**

Within the past year, MariTEL, the USCG, and other federal government agencies have acknowledged and worked together to resolve the controversy concerning the use of MariTEL's licensed channels 87B and 88B for AIS in the manner currently envisioned by the USCG in the NTIA Petition.<sup>6/</sup> During this time, MariTEL has provided a variety of formal and informal solutions to the USCG and other federal government agencies to facilitate their desired use of

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<sup>5/</sup> *Wireless Telecommunications Bureau Seeks Comment on MariTEL, Inc. Petition For Declaratory Ruling and National Telecommunications and Information Administration Petition for Rulemaking Regarding the Use of Maritime VHF Channels 87B and 88B*, DA 03-3585 and RM 10821, Comments of MariTEL, Inc. (filed Dec. 1, 2003).

<sup>6/</sup> *Wireless Telecommunications Bureau Seeks Comments on MariTEL, Inc. Petition for Declaratory Ruling and National Telecommunications and Information Administration Petition for Rulemaking Regarding the Use of Maritime VHF Channels 87B and 88B*, DA 03-3585 (rel. Nov. 7, 2003).

these channels for AIS use. MariTEL has generally informed the FCC of each of these solutions. The Proposal is one such solution that MariTEL recently submitted to the FCC

All of MariTEL's past proposals include three important elements. They each were designed to: 1) preserve MariTEL's FCC licensed rights, 2) facilitate use of channels 87B and 88B for simplex AIS operations,<sup>7/</sup> and 3) provide fair and just compensation based upon the use of MariTEL's licensed spectrum beyond that required by FCC rules. MariTEL proposed solutions that provide ubiquitous use by ship stations with no frequency use fee to the vessel operator. These solutions provide the right for Federal government entities to use channels 87B and 88B for shore stations and preserve MariTEL's rights to meet the shore station needs of non-federal government entities. Additionally, MariTEL proposed solutions that employ public/private partnerships to share network infrastructure that yield a net reduction in both capital and operating expenditures.

Unfortunately, the USCG has refused to engage in meaningful discussions in response to any of MariTEL's proposals, citing fiscal policy restrictions and its inability to define operational requirements for AIS. Instead, the USCG, through NTIA, submitted the NTIA Petition which, instead of including the elements noted above, simply proposes to strip MariTEL of its rights to spectrum it acquired at auction. MariTEL believes that the USCG is pursuing this regulatory action in lieu of considering attractive alternative commercial or joint government/industry solutions that would better benefit the entire maritime community.

MariTEL believes that the Proposal is a better solution than the NTIA Petition. Nevertheless, commenting parties should consider that the Proposal is only a suggested

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<sup>7/</sup> This proposal included management of the anticipated interference from AIS to VPC transmissions and vice versa. Independent third party testing highlights the need for significant coordination between AIS and VPC users to insure the integrity of both systems.

framework. For example, while MariTEL proposed a particular schedule of fees for the use of channels 87B and 88B, MariTEL believes market pressures should ultimately drive the fee schedule. MariTEL proposes maintaining sufficient control and flexibility regarding the use of its licensed spectrum so as to support, not constrain, the rapid adoption of AIS by vessels excluded from the USCG mandatory carriage requirements. MariTEL desires to expand the utility of AIS to all maritime stakeholders by offering value-added services. However, this can only be achieved by constraining Federal government oversight and allowing the commercial maritime industry to flourish.

Most importantly, MariTEL hopes that parties commenting in this proceeding address these issues in the same constructive spirit as MariTEL. The issues presented by MariTEL and the USCG in their recent submissions to the FCC are complex and MariTEL has endeavored to present a variety of mechanisms, the Proposal being only the most recent, to resolve those issues. As MariTEL demonstrated in its recent comments, the USCG's proposed solution, as represented in the NTIA Petition, is problematic because, among other things, it is contrary to established law and policy. Therefore, MariTEL hopes that parties do not merely criticize the Proposal but suggest solutions that take into consideration MariTEL's legal rights and the USCG's requirements.

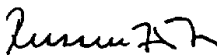
MariTEL is eager to receive Public Comments on the Proposal and encourages comments on the above framework for other AIS solutions.

### III. CONCLUSION

MariTEL, Inc. hereby submits the foregoing Comments and asks that the FCC grant the MariTEL Proposal and take other actions consistent with the views expressed herein.

Respectfully submitted,

MariTEL, Inc.

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December 12, 2003

## CERTIFICATE OF SERVICE

I, Susan F. Duarte, do hereby certify that on this 12th day of December, 2003, the foregoing Comments were served on the following persons by the method indicated:

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